

Attorney. Attached is a fresh Declaration and Power of Attorney which overcomes this objection.

The Office Action includes an objection to the disclosure. The stated reason for this objection is that the specification does not contain a "Brief Description of the Drawing". There is also a suggestion that the applicants include various headings. In response, the specification has been amended as set forth above to include such headings, including "Brief Description of the Drawing", even though there is no requirement that such headings be included.

Reconsideration and withdrawal of this objection are requested.

Claims 1 - 11 were rejected under 35 U.S.C. 112, second paragraph. The claims have been amended as set forth above to address this rejection. During the personal interview on June 27, 2000, it was noted that claim 1 recites a head receiving space for receiving a head, i.e., the head is recited as a workpiece, so that the claim covers the recited head massaging device whether or not there is a head within the head receiving space. The applicant acknowledges the indication by Examiner Yu during the June 27, 2000 interview that the above amendments to the claims overcome this rejection.

Claims 1, 2, 10 and 11 were rejected under 35 U.S.C. 102(b) over U.S. Patent No. 5,728,050 (Lin '050). Claims 3 and 6-9 were rejected under 35 U.S.C. 103 over Lin '050.

As discussed during the interview, Lin '050 discloses a massage/slap device comprising a slapping means 1, a sleeve 2 and a massage means 3. The slapping means 1 includes a plurality of slapping bars arranged in a bundle, an end of which is held in a seat 11. The slapping bars are made of flexible material, preferably metal.

The seat 11 includes a first end to which the end of the bundle of slapping bars is attached and a threaded second end 12. The massage means 3 includes two threaded ends 31 and 32 for threading engagement with the threaded inner surface 22 of the sleeve 2, and the massage means 3 further includes a massage member 33.

Lin '050 fails to disclose or suggest a head massaging device comprising a plurality of fingers defining a head receiving space, at least a portion of the head receiving space having a circumference which is greater than the circumference of the opening formed by a juxtaposition of free ends of the fingers. In addition, Lin '050 fails to contain disclosure which would make it obvious to modify the slapping device disclosed in Lin '050 such that it includes a head receiving space, at least a portion of which has a circumference which is greater than the circumference of the opening formed by a juxtaposition of the free ends of the slapping bars. In addition, as discussed during the personal interview on June 27, 2000, Lin '050 is directed to a massage/slapping device, in which the massage function is provided by the massage member 33. The massage member 33 does not include any fingers, or any other structure which defines a head receiving space. The bars 1 in Lin '050 are referred to as a "slapping means" as distinct from a massage means. In addition, there are significant structural differences between the flexible bars 1 of Lin '050 and the resilient fingers recited in claim 1. In order to provide the slapping function required by Lin '050, the bars 1 of Lin '050 would be incapable of defining and holding a space for receiving a head. Lin '050 contains no suggestion which would motivate one of skill in the art to construct the flexible bars 1 of Lin '050 such that they would be capable of defining and holding a head-receiving space. Furthermore, Lin '050 fails to disclose or suggest a

structure in which, when the structure is lowered onto a head so that the head enters a head receiving space defined by resilient fingers, the free ends of the fingers apply pressure to and thus massage the head. In the case of Lin '050, if an attempt were made to lower the slap device onto a head so that the head enters the space within the slap device through an opening defined by the ends of the slapping bars, the ends of the slapping bars would not necessarily remain in contact with the head.

Reconsideration and withdrawal of these rejections are requested.

Claims 1 - 4, 6, 10 and 11 were rejected under 35 U.S.C. 102(b) over U.S. Patent No. 836,217 (Rowe '217). Claims 5, 7 and 8 were rejected under 35 U.S.C. 103 over Rowe '217 .

Rowe '217 is directed to animal forceps including fingers 9 having free ends formed into hooks 10. The fingers 9 are located in grooves 3 of a head of the forceps. The fingers 9 are connected to a handle 11, and a ring 6 holds the fingers in the grooves 3. Fig. 1 shows the forceps with the fingers withdrawn, and Fig. 2 is a similar view in which the fingers are extended. As the fingers are extended, they are forced up the inclined grooves 3 of the head, until they assume the position shown in Figs. 2 and 5.

As discussed during the personal interview on June 27, 2000, Rowe '217 fails to disclose or suggest a structure in which, when the structure is lowered onto a head so that the head enters a head receiving space defined by resilient fingers, the free ends of the fingers apply pressure to and thus massage the head. In the case of Rowe '217, if an attempt were made to lower the forceps onto a head so that the head enters the head receiving space, and if the head were of a small enough size that the forceps

could open far enough to allow the head to enter through the opening defined by the fingers, after opening, the fingers would remain spread apart and not apply pressure to the head. If on the other hand the head were larger than the opening, the fingers of the forceps, which must be rigid in order for the device to function as a forceps, would block the head from entering through the opening. It would not have been obvious to modify the device of Rowe '217 to satisfy these claimed features, because doing so would render the device of Rowe '217 ineffective for its intended purpose, namely, grasping objects and holding them firmly. The present claims are directed to a head massaging device, whereas Rowe '217 is directed to a forceps. It is improper for the USPTO to argue that it would be obvious to modify Rowe '217 in order for it to function more effectively as a head massaging device (a function which is clearly contrary to the functions provided by a forceps).

Reconsideration and withdrawal of these rejections are requested.

New claims 12 - 20 are added hereby. Claim 12, from which each of claims 13 - 20 ultimately depend, recites that each finger has an opposite end, the opposite ends being connected together, the head receiving space extending between the free ends of the fingers and the opposite ends of the fingers. In Rowe '217, the space between the fingers of the forceps does not extend from the free ends 10 of the fingers 9 to their opposite ends which are connected to the handle 11. In Rowe '217, this space is blocked by the head 1 of the forceps. As noted above, Lin '050 fails to disclose or suggest a head massaging device comprising a plurality of fingers defining a head receiving space, at least a portion of the head receiving space having a circumference which is greater than the circumference of the opening formed by a juxtaposition of free

ends of the fingers, as recited in new claim 12.

Favorable consideration of new claims 12 - 20 is respectfully solicited.

In view of the above, claims 1-4 and 6-20 are in condition for allowance. Should it be deemed that any further action by the applicants could place this application in better condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Should any additional fees be due with respect to this paper, the Commissioner is hereby authorized to charge such fees to Counsel's Deposit Account No. 50-1446.

Respectfully submitted,
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